

MEMORANDUM

TO: Administrative Services Committee

FROM: Mary Steckel, Public Works Director

DATE: April 1, 2013

SUBJECT: Update on the Single-Use Plastic Carryout Bags Ordinance

ISSUE

The Administrative Services Committee requested an update report on the Single-Use Plastic Carryout Bags Ordinance.

BACKGROUND

The Corvallis City Council passed Ordinance 2012-13, creating a new Corvallis Municipal Code Chapter 8.14, "Single-Use Plastic Carryout Bags" on July 2, 2012. Chapter 8.14 prohibits retail establishments from distributing single-use plastic carryout bags to their customers and encourages the use of reusable options to avoid the negative environmental consequences of plastic bags.

Enforcement of the Ordinance began on January 1, 2013 for retail establishments with more than 50 full-time equivalent employees (FTEs) at their Corvallis locations. Enforcement will begin July 1, 2013 for the remaining Corvallis retail establishments.

DISCUSSION

Outreach and education prior to enforcement

Prior to the beginning of enforcement, staff used several different techniques to educate the community about the coming change.

In August 2012, staff sent letters to over 370 retail establishments in Corvallis with information about the new ordinance. Attachment A is an example of the materials provided. This information was also added to the City's plastic bag website along with Frequently Asked Questions (FAQs) for retail establishments and shoppers (www.corvallisoregon.gov/plasticbags).

Staff coordinated the establishment of a community outreach team comprised of supporters of the ordinance. This Bring Your Bag Team then carried out several outreach and education efforts, including reusable bag giveaways, classes to make reusable bags and a reusable bag and logo design contest. Staff provided additional information for *Gazette-Times* articles and local news coverage in the month before ordinance enforcement (Attachment B).

Enforcement and feedback

Enforcement of the ordinance began on January 1, 2013 for approximately 11 retail establishments. Some smaller stores not yet required to meet ordinance requirements chose to comply ahead of time. During the first week of enforcement, staff visited stores to observe how the community and retail establishments were adapting. Stores seemed well-prepared for the transition. In general, customers did not seem quite as prepared. Staff observed customer reactions when learning of the new ordinance, which varied from easy acceptance to complete frustration. Within the first week of enforcement, staff received two contacts from the public about stores failing to comply. In both cases, staff talked to the store managers and compliance was quickly achieved.

Approximately one month after enforcement, staff visited affected stores again and sought input from store managers. The consistent feedback was that compliance with the ordinance was going well and a majority of their customers had expressed little difficulty adjusting. Most store managers also stated that a small number of customers had expressed their frustration with the ordinance, stating concerns similar to those mentioned below. Many also stated that the nickel

charge has been effective in shifting people to use reusables, rather than paper bags. Recently, City staff received a report of a 72% decrease in carryout bags provided to customers at one store, compared to the same time period last year. This equates to over 5,200 fewer bags handed out per day at one store.

In early January, staff received several questions about how the new ordinance applies to customers using the Women, Infants and Children program (WIC), the Supplemental Nutrition Assistance Program (SNAP), and Oregon Trail vouchers. Staff provided a letter (Attachment C) to grocery stores clarifying how the ordinance would be interpreted, stating, “staff are interpreting this language to apply only to the transaction in which the WIC voucher is used. In other words, reusable or recyclable bags shall be provided at no cost only for the WIC transaction. If that customer has another transaction not using a WIC voucher, that transaction is subject to the language of the ordinance.”

Staff tracked feedback on the ordinance which included emails to City Councilors (Attachment D), emails and phone calls to staff (Attachment E), and letters to the editor of the *Gazette-Times* (Attachment F). The feedback received coalesced around these concerns:

1	Concern: The minimum 5 cent charge on paper bags places an undue burden on those on a limited income.
	Staff response: The required 5 cent charge for paper bags provided at checkout is avoidable if shoppers bring their own reusable bags. Many stores provide a 5 or 6 cent refund for shoppers who bring their own bags, so the cost of purchased paper or reusable bags can be offset through reuse.
2	Concern: It is illegal for the City to force retail establishments to charge for bags.
	Staff response: Staff continues to work under the advisement of the City Attorney who provided testimony to Council prior to adoption of the ordinance supporting the City’s right to proceed.
3	Concern: The increased use of reusable bags will lead to a higher risk of contamination from pathogens.
	Staff response: There has been conflicting information received on this issue. Staff defers to the decision made by the City of San Francisco that there is little evidence connecting reusable bags to increases in disease transmission.
4	Concern: The banned plastic bags had several alternative uses for which there is no substitute.
	Staff response: Many substitutes exist for the stated alternative uses of plastic bags. Staff posted some alternatives in the FAQ section of the City’s plastic bag website.
5	Bag requirements and/or bag charges place an undue burden on small business. For instance, it is difficult for small businesses to find suitable bags (e.g., 40% post-consumer recycled content paper bags of all sizes or plastic bags 2.25 mil or thicker) at a reasonable cost.
	Staff response: Staff recommends changes to the ordinance as described below that address this concern.

To discuss feedback from the public, in February Councilor Brauner convened a meeting with small business interests, ban advocates, and City staff. Consensus among the group was reached around eliminating the 40% post-consumer recycled content requirement for paper bags and

changing the requirement for charging a minimum of 5 cents per bag for any paper bag to only charging for barrel size paper bags (i.e., typical carryout grocery sacks).

Opportunities for ordinance modification

From the feedback received, staff identified opportunities to improve the ordinance:

1. To clarify recommended changes to the ordinance, it is necessary to include a definition for Barrel Size to Section 8.14.020. The Section would include the following **new** language:

Section 8.14.020 Definitions

Barrel Size - a paper carryout bag with approximate dimensions of 12 inches wide x 7 inches deep x 13-18 inches tall or a capacity of 1,100 to 1,600 cubic inches.

2. Also in Section 8.14.020, it is necessary to remove from the definition of Recyclable Paper Bag the requirement for 40% post-consumer recycled content. With changes, the definition would read:

Section 8.14.020 Definitions

Recyclable Paper Bag - means a paper bag that meets all of the following requirements:

- a.) Is 100% recyclable ~~and contains a minimum of 40% post-consumer recycled content;~~
- b.) Is capable of composting consistent with the timeline and specifications of the ASTM Standard.

3. As currently written, Section 8.14.040.010 does not include regulation about making non-Recyclable Paper Bags available to customers or providing Barrel Size bags without charging a minimum of 5 cents each. The Section would include the following **new** language:

Section 8.14.040.010 Prohibition on Plastic Bags

Retail Establishments shall not provide or make available Single-Use Plastic Carryout Bags ***or non-Recyclable Paper Bags, and/or provide a Barrel Size Recyclable Paper Bag without charging a minimum of 5 cents each*** to customers.

4. Language recommended for addition to Section 8.14.040.020 would clarify that all paper bags provided at checkout by retail establishments must be recyclable and compostable. This Section should also include language specifying that only barrel size paper bags require the 5 cent charge. Suggested changes and **new** language include:

Section 8.14.040.020 Requirement for Paper Bags

When a Retail Establishment makes a ***paper bag*** ~~Recyclable Paper Bag~~ available to a customer at the point of sale, ***the bag must meet the definition of a Recyclable Paper Bag. The For Barrel Size Recyclable Paper Bags,*** Retail Establishments shall charge the customer a reasonable pass-through cost of not less than 5 cents ~~each per Recyclable Paper Bag provided to the customer.~~

5. Changes to Section 8.14.050.010 place responsibility for violations on those with control or authority over the retail establishment. The **new** language added below to Section 8.14.050.010 would provide clarity on who is responsible for violations:

Section 8.14.050.010 Responsible Party

~~A person is guilty of a violation of this Section, if that person is the one who provides or makes available a Single-use Plastic Carryout bag to customers, and/or is a~~ A person who is in charge or in control of a retail establishment ~~that provides or makes available a Single-use Plastic Carryout~~

~~bag to customers, and/or is a person or business entity (e.g., corporation, firm, partnership, association, limited liability entity, cooperative) who owns a retail establishment that provides or makes available a Single-use Plastic Carryout bag to customers, or is an agent, officer, or manager, director, or employee or who exercises authority over the a retail establishment that provides or makes available a Single-use Plastic Carryout bag to customers~~ **is not in compliance with Chapter 8.14.**

6. Section 8.14.050.020 does not address non-Recyclable Paper Bags or the failure to charge the minimum 5 cents. The section would need the following **new** language:

Section 8.14.050.020 Separate Offense

Each Single-use Plastic Carryout Bag **or non-Recyclable Paper Bag** provided or made available to customers, **and/or each Barrel Size Recyclable Paper Bag provided or made available to customers without charging a minimum of 5 cents each** in violation of this Section is a separate offense.

RECOMMENDATIONS

Staff recommends the Administrative Services Committee recommend that City Council adopt the six identified opportunities for ordinance modification described above.

Reviewed and Concur:

James A. Patterson, City Manager

Jim Brewer, City Attorney

Attachments:

- Attachment A - Information Provided to Retail Establishments
- Attachment B - Local News Stories About the Single-Use Plastic Carryout Bag Ordinance
- Attachment C - Clarification About WIC and SNAP programs
- Attachment D - Comments to City Councilors
- Attachment E - Feedback Received by Staff
- Attachment F - Letters to the Editor
- Attachment G - Ordinance 2012-13 with Recommended Changes